

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**  
**IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE,	)	
	)	
v.	)	ID No. 9709002535
	)	
DERIOUS JOHNSON,	)	
	)	
Defendant.	)	

Submitted: August 24, 2009  
Decided: September 17, 2009

Upon Defendant's Motion for Postconviction Relief.  
**DENIED.**

ORDER

Richard G. Andrews, Esquire, Department of Justice, Wilmington, Delaware.  
Attorney for the State.

Derious Johnson, James T. Vaughn Correctional Center, Smyrna, Delaware. *Pro Se* defendant.

CARPENTER, J.

IT IS SO ORDERED this 17<sup>th</sup> day of September, 2009, that the defendant's Motion for Postconviction Relief is hereby denied for the following reasons:

1. On May 4, 1998, the defendant pled guilty to Possession With the Intent to Deliver a narcotic schedule I controlled substance and was sentenced to the boot camp diversion program.

2. The defendant subsequently violated the terms and conditions of boot camp and was subsequently sentenced in May of 1999 to a "30 day relapse program" with the boot camp order remaining in place. Subsequently in July of 1999 the defendant again violated the terms and conditions of the boot camp order and he was resentenced to six months of incarceration followed by 18 months of Level 3 probation. That probation was subsequently discharged on March 20, 2001 because of the life imprisonment sentence that the defendant received for a subsequent conviction.

3. If the defendant wanted to file a motion for postconviction relief, it was required to be filed within three years of the July 13, 1999 sentence and as such, the present motion is untimely and is dismissed pursuant to Rule 61(i)(1).

4. In addition, the Court finds that the defendant's sentence in this matter has been completed as the probation was discharged as a result of the defendant's other conviction and he is no longer serving this sentence. As such, any

modification requested by the defendant would be meaningless and would have no bearing upon his present incarceration imposed in ID No. 0304007340 which is a life sentence imposed by the Court.

IT IS SO ORDERED.

/s/ William C. Carpenter, Jr.

Judge William C. Carpenter, Jr.